

## **TITLE 326 AIR POLLUTION CONTROL BOARD**

### **FINDINGS AND DETERMINATION OF THE COMMISSIONER PURSUANT TO IC 13-14-9-7 AND SECOND NOTICE OF COMMENT PERIOD #99-XX(APCB)**

#### **DEVELOPMENT OF A NEW RULE CONCERNING HAZARDOUS AIR POLLUTANT EMISSIONS FROM THE PRODUCTION OF FLEXIBLE POLYURETHANE FOAM**

##### **PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for a new rule to incorporate by reference the October 7, 1998, final federal rule for hazardous air pollutant emissions from the production of flexible polyurethane foam. The purpose of this notice is to seek public comment on the draft rule, including suggestions for specific language to be included in the rule. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** 326 IAC 20-22.

**AUTHORITY:** IC 13-15-2-1; IC 13-17-3-4.

##### **STATUTORY REQUIREMENTS**

IC 13-14-9-7 recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods routinely provided. In cases where the commissioner determines that the rulemaking policy alternatives available to IDEM are so limited that the notice of first public comment period would provide no substantial benefit, IDEM may forego this comment period and proceed directly to the notice of second public comment period.

If the commissioner makes the determination of limited rulemaking policy alternatives required by IC 13-14-9-7, the commissioner shall prepare written findings and include them in the second notice of public comment period published in the Indiana Register. This document constitutes the commissioner's written findings pursuant to IC 13-14-9-7.

The statute provides for this shortened rulemaking process if the commissioner determines that "the rulemaking policy alternatives available to the department are so limited that the public notice and comment period under IC 13-14-9-3 would provide no substantial benefit to:

- (1) the environment; or
- (2) persons to be regulated or otherwise affected by the proposed rule."

##### **BACKGROUND**

On October 7, 1998 (63 FR 53980), U. S. EPA issued a final regulation to reduce emissions of toxic air pollutants, those pollutants known or suspected of causing cancer or other serious health effects, from the flexible polyurethane foam industry. This regulation covers three distinct segments of this industry: slabstock, molded, and rebond polyurethane foam production. Slabstock foam products are primarily used in furniture seat cushions and bedding materials; molded foam is used in automotive seats, packaging, and a wide range of specialty products; and rebond foam is used as carpet padding and cushions for school bus seats. Typically these industries are designated as Standard Industrial Classification code 3086, of which fifty six (56) sources are in Indiana. Existing sources subject to the regulation are required to comply within

three years of the effective date of the federal regulation, and new sources will be required to comply at initial startup. U. S. EPA believes that all rebond foam manufacturers are already complying with the applicable requirements.

The affected source is defined as each process that produces flexible polyurethane or rebond foam, emits a hazardous air pollutant and is located at a major source plant site. A process consists of raw material storage, production equipment and piping, ductwork, and other associated equipment; curing and storage areas. The regulations do not apply to processes dedicated exclusively to fabrication, such as gluing or otherwise bonding foam pieces together or to research and development.

In producing slabstock polyurethane foam, varying amounts of methylene chloride are required depending on the desired characteristics of the foam. For example, larger quantities of methylene chloride help increase a “blowing” action that produces lighter, softer foam. Manufacturers need to produce foam products with a wide range of softness and weight in order to serve varied markets. Hazardous air pollutant emissions from the following types of emission points are covered by the final standard: storage vessels, equipment leaks, production line, mixhead flush, mold release agents and auxiliary blowing agent uses. The pollutant emitted and the emission points required to be controlled by these standards vary according to whether the facility produces slabstock, molded or rebond flexible polyurethane foam.

This regulation primarily reduces emissions of methylene chloride and other pollutants emitted that includes toluene diisocyanate, methyl chloroform, diethanolamine, methyl ethyl ketone, methanol, and toluene. Methylene chloride comprises over ninety eight (98) percent of the total hazardous air pollutant emissions from this industry and will be reduced by seventy per cent (70%). Most of the control requirements are based on cost-effective pollution prevention techniques such as facilities are allowed to avoid controlling emissions of methylene chloride in equipment cleaning, equipment leaks and storage in exchange for using less methylene chloride as a blowing agent.

## **FINDINGS**

The commissioner of IDEM has prepared written findings regarding rulemaking on hazardous air pollutants from the production of flexible polyurethane foam. These findings are prepared under IC 13-14-9-7 and are as follows:

- (1) Indiana is required to incorporate federal air toxics rules both by Section 112 of the Clean Air Act and to assure retaining delegation of the Title V air operating permit program.
- (2) This rulemaking is an adoption of federal rules that have already gone through a rigorous public comment period at the federal level. There is opportunity to comment on this rulemaking during one comment period, as well as at the preliminary and final adoption hearings at the state level.
- (3) I have determined that under the specific circumstances pertaining to this rule, the rulemaking policy alternatives are so limited that the public notice and comment period provided in the notice of first public comment period would provide no substantial benefit to the environment or to persons to be regulated or otherwise affected by the rule.
- (4) The draft rule is hereby incorporated into these findings.

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John M. Hamilton  
Commissioner  
Indiana Department of Environmental Management

## **REQUEST FOR PUBLIC COMMENTS**

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the rule. Mailed comments should be addressed to:

#99-XX(APCB) Polyurethane Foam NESHAP  
Janet McCabe  
Assistant Commissioner  
Office of Air Management  
Indiana Department of Environmental Management  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015

Hand delivered comments will be accepted by the receptionist on duty at the tenth floor reception desk, Office of Air Management, 100 North Senate Avenue, Indianapolis, Indiana, Monday through Friday between 8:15 a.m. and 4:45 p.m.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Section at (317) 233-0430.

## **COMMENT PERIOD DEADLINE**

Comments must be postmarked, hand delivered, or faxed by June 1, 1999.

Additional information regarding this action may be obtained from Jean Beauchamp, Rules Development Section, Office of Air Management, (317) 232-8424 or (800) 451-6027, press 0 and ask for 2-8424 (in Indiana).

## **DRAFT RULE**

SECTION 1. 326 IAC 20-22 IS ADDED TO READ AS FOLLOWS:

### **Rule 22. Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production**

#### **326 IAC 20-22-1 Applicability; incorporation by reference of federal standards**

Authority: IC 13-15-2-1; IC 13-17-3-4  
Affected: IC 13-12-3-1

**Sec. 1. (a) This rule applies to each new and existing flexible polyurethane foam or rebond foam process as provided in 40 CFR 63.1290:\***

**(b) The air pollution control board incorporates by reference 40 CFR 63 Subpart III, 63 FR 53996\* (October 7, 1998), Emission Standards for Hazardous Air Pollutants for**

## **Flexible Polyurethane Foam Production.**

**\*Copies of the Code of Federal Regulation (CFR) and Federal Register (FR) referenced in this article may be obtained from the Government Printing Office, Washington, D.C. 20204 or the Indiana Department of Environmental Management, Office of Air Management, 100 North Senate Avenue, Indianapolis, Indiana 46204.**

### **Notice of First Meeting/Hearing**

*Under IC 4-22-2-24, IC 13-14-8-1, IC 13-14-8-2 and IC 13-14-9, notice is hereby given that on August 4, 1999 at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana, the Air Pollution Control Board will hold a public hearing on new rule 326 IAC 20-22.*

*The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed new rule. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing. Procedures to be followed at this hearing may be found in the April 1, 1996 Indiana Register, page 1710 (19 IR 1710).*

*Additional information regarding this action may be obtained from Jean Beauchamp, Rules Development Section, Office of Air Management, (317) 232-8424 or (800) 451-6027, press 0 and ask for 2-8424 (in Indiana). If the date of this hearing is changed, it will be published in the Change of Notice section of the Indiana Register.*

*Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:*

*Attn: Sandy Meanor, ADA Coordinator  
Indiana Department of Environmental Management  
100 North Senate Avenue  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015*

*or call (317) 233-1785 (V) or (317) 233-6565 (TDD). Please provide a minimum of 72 hours' notification.*

*Copies of these rules are now on file at the Office of Air Management, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor East, Indianapolis, Indiana and are open for public inspection.*